

NEWINGTON TOWN PLAN AND ZONING COMMISSION

July 8, 2009

Regular Meeting

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room 3 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut

I. ROLL CALL

Commissioners Present

Commissioner Ganley
Chairman Hall
Commissioner Pane
Commissioner Schatz
Commissioner Aieta
Commissioner Camerota
Commissioner Lenares

Commissioners Absent

Commissioner Casasanta
Commissioner Kornichuk
Commissioner Pruett

Commissioners Camerota, Aieta and Lenares were seated for Commissioners Casasanta, Kornichuk and Pruett.

II. PUBLIC HEARINGS

- A. PETITION 16-09– Hunter Development Company, P.O. Box 336 East Long Meadow, MA 01028, Attention Michael Frisbie applicant, HDC One, LLC owner, request for amendment Section 5.2.5 Special Exception B-BT Zone District. Schedule for July 8, 2009. Public hearing continued from June 10, 2009.**

Chairman Hall: If the applicant is present, come forward, state your name and address for the record.

Michael Ziska: Good evening Madam Chairman, Members of the Commission, I am an attorney with Murtha, Kine, representing the applicant Hunter Development. With me tonight is Michael Frisbie who is a principle with the company. The property involved is at the corner of Russell Road and East Cedar Street. This is an application for a modification of the conditions of approval of a prior Special Exception that was granted by this Commission in 2007. This property was the subject of several applications back at that time for various uses of the property and also for site plan approval. The application was partially approved as presented but one portion was denied and that was specifically for a gasoline service station that had been proposed at that time. It was a subject of a court appeal and during that court appeal the parties agreed to a compromise under which the Special Exception would be issued for the proposed gasoline service station subject to conditions that were designed at least as we understand it to provide a strong financial incentive to the landowner to complete the project. We understood that what the Commission was concerned about was that they would end up with gasoline station and nothing else. We understood the Commission's concern and tried to craft at that time conditions of approval that would alleviate those concerns and much of what the conditions of approval did of

that Special Exception were to create stages of development which stated that the applicant would have to have certain portions, certain other uses of the project completed to a certain stage before a Certificate of Occupancy would be issued for the gasoline service station, just to make sure that the Commission wasn't going to end up with a single project but would end up with a nice comprehensive development as it wanted. So those were the conditions of approval. Now Hunter Development, the applicant and land owner, one of the things that the Commission was concerned about particularly at that time, or was most interested in at that time was the hotel development that was going to be a substantial portion of this application and they wanted to make sure that the hotel was going to be built. Part of the conditions of approval were that before the Certification of Occupancy would be issued for the gasoline station, the hotel building permit fee would be paid and the footings and the foundation would be constructed for the hotel, so that was part of the condition of approval. Now again, this was subject to a court stipulation, but the stipulation was that the Special Exception would issue, for the proposed project including the gasoline station with those conditions of approval. Now Hunter Development had a tenant all lined up, for this and we do have and Michael Frisbie will be providing information on that for the Commission this evening, had the tenant lined up, but as I think we were all aware, there were some unforeseeable and relatively unprecedented economic circumstances that beset the entire country, not only the State of Connecticut over the last year and quite simply the hotel financing dried up and Michael will tell you more about that. So, we are at a position now where Michael has been advised by the hotel folks that he was dealing with that it is probably going to be another year or so before the hotels will be in a position to gain the financing they need from the banks. One of the ironies of this is that part of the financing groups that financed the development of the project are also the groups that have denied funding to this hotel at the time, so it's a very, very strange and again unprecedented situation. We are here tonight under Section 5.2.7 of your regulations which says, quote amendments to the conditions of a Special Exception shall require a new petition and public hearing as required by the Connecticut General Statutes, end of quote, so we are here tonight to seek modifications of the conditions in a manner that reflects current economic conditions but will still provide the incentive that I think the Commission desires to assure the completion of the project and will help make sure that this town ends up with a good, good development project that will meet the town's goals and desires for that area. I'd like now to introduce Michael Frisbie to discuss the work that he has done, that Hunter Development has done since May 14, 2007 when the stipulation was agreed to, in order to accomplish completion of the project, so Michael, would you please tell the Commission what work and efforts you have made since that time.

Michael Frisbie: For the record, my name is Michael Frisbie, I'm the owner of the property at 751 Russell Road here in Newington. Since the approval process, since we were granted approval, we have gone through several steps to try to push this project forward, including two and a half years of getting our access permit from the STC and the Connecticut DOT which we have received. We have gone through numerous real estate negotiations with several different tenants including the hotel. We have done outside survey work, we have done civil engineering, with relation to the off site improvements, and that's approved by the state STC and the DOT. We have also had several conversations and negotiations with our neighbors regarding the access of off site property, for the benefit of everyone. We have also demolished the existing structures on site, we have listed the property with a couple different brokers to try and persuade new tenants and we've also carried the property for well over two years since we acquired the land. So those are the major things that we have worked on since the last time we were here.

Attorney Ziska: Michael, could you describe more specifically what you had to do with the Department of Transportation to enable you to get the access onto Route 175.

Michael Frisbie: Sure. The original application that we submitted was for a traffic signal just off of the off ramp, almost to the point of the neighbor, Redan Upholstery, if you are familiar with the

site, and the application that was submitted was to do some specific widening of that roadway as well as provide some well needed improvement to the off ramp. As part of our negotiations with the STC and the DOT they wanted us to enlarge that scope of work, including new off ramps, etcetera, and additional traffic signals and we finally got to a point where we negotiated an agreement to make off site improvements that everyone was satisfied with.

Attorney Ziska: Could you tell the Commission which hotel chain we are in discussions with?

Michael Frisbie: There is a hotel developer out of Massachusetts that was approved for a Marriott Springhill Suites and they did their feasibility study and I'll just elaborate a little bit, once they got to a point where we had a purchase/sale agreement, we also had a letter of intent, we were going through the original approval process and when it got to a point where their financing wasn't coming through, we came to the town and met with the Town Manager and the Town Planner to talk about, you know, their interest, their level of interest. We shared with them the feasibility study and the approval from Marriott Springhill Suites.

Attorney Ziska: So the Town Manager and the Town Planner were aware of the change of financial circumstances of the hotel developer?

Michael Frisbie: They were, yes.

Attorney Ziska: Now is this a copy of the purchase and sale and agreement that you signed with that developer.

Michael Frisbie: It is, yes.

Attorney Ziska: Madam Chairman, I'd like to submit that, I apologize, it's not stapled, submit that for the record. Now you mentioned that you incurred several costs, have you prepared a compilation of the costs that you have incurred in moving forward to develop this property in accordance with the approved site plan.

Michael Frisbie: I put together a list of costs that we've incurred since our original approval, yes.

Attorney Ziska: Madam Chairman, I'd like to submit that for the record. This is a compilation of costs that again, for the record, I'll read out. They include attorney's fees for various real estate related legal work and negotiations in the amount of approximately seventeen thousand dollars, surveying costs in the amount of about seven thousand dollars, time and materials costs for the developer of approximately twenty three thousand five hundred, civil engineering costs, twenty-six thousand dollars plus, traffic engineering costs of approximately thirty-six thousand dollars, demolition costs of ninety-seven thousand dollars, brokerage fees of seventy-five hundred dollars, and mortgage expenses and taxes over the last several years of over three hundred and twelve thousand dollars, so more than half a million has been invested in this property in moving forward under the plans.

Michael Frisbie: If I may, that is just after we got the approval, those number have nothing to do with what it took us to get our approvals.

Attorney Ziska: The point of that is just to indicate to the Commission that a good faith effort has been made and a lot of expense has been paid, in moving forward under the terms of the existing plan. We wanted to assure the Commission that this developer and applicant has used every good faith to get this project done in the manner that was originally agreed upon pursuant to the terms of the stipulation, and it simply hasn't been possible because of this unprecedented economic problem. Now, Michael you prepared a proposal for modification of the conditions and

is this the proposal that you presented to the Town Planner, in the Town Planner's office? Mr. Meehan, may I ask you if this is part of the record, this letter of May 27th?

Ed Meehan: Yes, the Commission members have that in front of them now.

Attorney Ziska: Okay, all right, so the Commission members have seen that, that is the proposal that we have for modification of conditions. Would you explain, Michael, briefly what you are looking for in those modifications.

Michael Frisbie: In an effort to move the project forward I was proposing that we do a phased development. Phase one would be the construction of the infrastructure of the site which would include the roadways, all of the utilities, underground work as well as the construction of the gas station/convenience store and the 9,000 square feet of retail. The pad sites for the bank and the restaurant would be graded out and ready for development which I would propose as Phase Two, and then Phase Three would be the hotel portion of it. I emphasize, on the first phase, that we are going to do all of the landscaping in front and get the property ready so that, not only to help us market it, but also to show that it's a first class development regardless of what is being built there.

Attorney Ziska: Is it possible even at this point to design the hotel building without a known tenant?

Michael Frisbie: Well the design for the infrastructure would be in place, meaning the utilities would be to the site, so basically it would be a pad ready site in the sense that they just come in and do the work, and the reason that I say pad ready site is that we are going to bring the utilities off the street and all the infrastructure will be in place except for the portion where the hotel is going to be built including the parking lot, and the agreement that I had with the hotel developer is that they would come in and do all of the work on that pad site. They would grade the site, they would put in the underground storage, they would put in the parking lot as well as build the hotel itself.

Attorney Ziska: Michael, anything else you can add to this? I should say, you still intend to complete the project?

Michael Frisbie: We do, and as I told the Commission in the past, we are fortunate that we have our financing in place, unfortunately the time is ticking away, and the banks are a little nervous about our project because it has taken so long for us to get it started. But I have every intention to move this thing forward as a first class development and now is the time to do it. We wait a few more months and we are into the winter season, and will have a tough time getting it built.

Attorney Ziska: I would just like to conclude with a few comments. First, this is one of a very, as you can image, a very select number of properties in the entire State of Connecticut where a significant form of economic development is being proposed for a community, and although we recognize that this would require the Commission to take a little bit more of a leap of faith, on the hotel, that this developer will go forward, we hope that the amount that the developer has spent on moving this project forward without seeking any kind of recompense, the fact that he did have, in good faith, a plan in place until the economy prevented the hotel from obtaining the financing that it needed to move forward, those are just factors that nobody could have anticipated at this point, and this developer is committed to this project and committed to making the entire thing work. This will be a good project for the Town of Newington. We hope that the Commission will see it that way and will do what is necessary tonight to allow this project to move forward.

The other thing that I would like to mention, in terms of modifications of your Special Exception, your regulations do say that it should be presented to the Commission and dealt with as though it

were a regular application for a Special Exception and so in that case I looked at your standards for approval of a Special Exception which are set forth in Section 5.2.6 and none of those factors are affected by this proposal because they include the need for the proposed use and nothing is changing about the use, the existing and probable future character of the neighborhood, again no change, size, type and location of main and accessory buildings in relation to one another, again, no proposal is made to change the site plan, traffic circulation within the site, again, no change, availability of public water and sewer, again, no change, location and type of display signs, no change, safe guards to project adjacent property and the neighborhood in general from detriment, including but not limited to proper buffering. Most of those focus on the site plan, and the types of uses being proposed and there is no change in any of these. The only change that we are seeking is in the phasing of the project and again, that is due to the unprecedented economic conditions, so we ask your indulgence and ask you to approve this modification. I feel like I have just gone through a Bedding Barn commercial, I've spoken so fast, but I guess lawyers are trained to do that. Thank you very much for your attention.

Chairman Hall: Thank you. Ed, any comments, any more information?

Ed Meehan: Thank you. I think the Commission should look at Hunter Development's letter dated May 27th, very carefully because it does, as Attorney Ziska has said, substantially re-order the stipulated agreement process as far as sequence of phasing. I'm not sure how much different this is from what the Commission had in front of them in April when you talked about this. There wasn't any application, formal application or public hearing comments, public hearing process back in April, but the Commission probably recalls that you had a request to change the order and then on April 7th, it was denied, not to change the order. We also had comments from the Town Attorney that this would have to go back to Superior Court if both parties agree to change the stipulated agreement and get court ratification, so that's maybe another step further down the road depending on how far you go with this. I guess my question, and I guess Mike Frisbie can probably answer this, there was an architectural component in this which the Commission, when they worked on the plans felt very strongly about, and I see that you referenced the retail store would be built in accordance with the Brown-Linquist architectural plans. My question is, what about the gas station, the pad sites and the hotel. We have architectural renderings on file, is it your intent to try to replicate those, or would that depend on occupancy?

Michael Frisbie: It's our intent to replicate those. If that was omitted from the memo, I apologize.

Ed Meehan: Okay. The other question that I have is, you do have a State Traffic Commission certificate, the Town on Hunter Development's behalf met with STC staff on a couple of occasions. One of the conditions of the STC approval is to provide access to neighboring property with a driveway, not to be constructed by Hunter, but by the neighboring property coming out to the single traffic signal. Is that still part of this plan?

Michael Frisbie: Yes it is, and I will make part of the record, we had a conference call, my attorney had a conference call with Toll Brothers yesterday, and we spoke at length about their plans as well as ours to try and include them, and we have already gone back and forth with regards to an agreement. The attorneys are reviewing that and hopefully we will come to a reasonable agreement soon.

Ed Meehan: Okay, I know that there was, I don't think it's the role of the Commission to get between the two developers on this, but I know we have been, at staff level I have been copied in on various e-mails to come up with a fair cost sharing, to make that work. Is that the avenue that you are following here?

Michael Frisbie: Yes, and we had to provide those numbers to them yesterday afternoon.

Ed Meehan: Okay. Have you filed your certificate on the land records yet?

Michael Frisbie: Yes we have.

Ed Meehan: Okay, thank you.

Attorney Ziska: I just wanted to respond to Mr. Meehan's first comment. I'm not privy to what the Town Attorney said, but Michael just referred me to his attorney, he's referring to Attorney Paul Bicari of Springfield, so I'm not privy to that, but with respect to the procedure for the modification I'm not sure why Town Counsel thought this had to go back to the court, but it doesn't have to go back to the court because your own regulations provide for the amendment of the Conditions of Approval of the Special Exception, and that is what we are asking for, modification of conditions. Again, 5.2.7 specifically says amendments to the conditions of special exception shall require a new petition and public hearing, so this is the procedure that your regulations actually require, not going back to the court. Now, certainly if the Commission wanted to have us go back to the court with it to make this part of the judgment as well, we could do that, but I don't think that there is legally any need to do that and this is the procedure that is required for the amendment of the conditions. Thank you.

Ed Meehan: I think we will let Ben and the attorneys hash that one out.

Commissioner Ganley: With all due respect Attorney Ziska, and this is not personal, it's not always a good idea for Commissions and Boards to take legal advice from a petitioner's attorney, okay, that's number one, therefore, I'm not going to. Your remark about going back to the Town Attorney is proper. My own opinion is that you are in the wrong venue at this time. That in fact, you should have gone to the town attorney in the first place, got it all done, and then presented us with the finished business. I don't see us in the position of modifying or moving about any of the conditions or terms and then going back to the Town Attorney and saying we've just undone all the work you guys have done, and all the cost that the town incurred, to get this done. My own position is, and it's been my position since this thing has come back to us is that you guys were at the wrong place. You should have gone back to the Town Attorney and solved that legal issue because obviously it can't be resolved here.

Attorney Ziska: My understanding is that there were discussions with the Town Attorney's office, but again, I wasn't privy to that because I wasn't the attorney involved, and I understand, I take no offense by what you say, I know that you have to, I know you can't take advice from me. Unfortunately I also have a duty to put this on the record, and I certainly would anticipate that you would go back to Attorney Ancona and ask for his advice on this, and I would be glad to talk to him in the meantime, but thank you for your comments.

Commissioner Pane: I think we need to go to the public since this is a public hearing, Madam Chairman.

Chairman Hall: We will, I just wanted.....

Commissioner Pane: I won't speak until the public hearing is closed, for the record.

Chairman Hall: Okay, I just figured that while they were here, if you had any questions to help with the public.....

Commissioner Pane: The procedure is Madam Chairman that we go to the public, we hear the public then we go into the Commissioner's comments. Thank you Madam Chairman Hall

Commissioner Lenares: I have a quick and easy question for Mike. I wasn't on the Commission when this thing first came before this board, can you just do me a favor and just point out the buildings and what they are and the streets and the on's and off's of the ramps there, just so I know exactly what I looking at.

Michael Frisbie: Sure, and if this isn't good enough, I also brought the site plan.

Commissioner Lenares: Perfect.

Michael Frisbie: I'll start on the eastern side, this is the off ramp from the Berlin Turnpike, so our property abuts the Russell Road/Berlin Turnpike off ramp. These are supposed to be the on-ramps for going south on the Berlin Turnpike across the street. This is where the old Lowe Manufacturing was on the corner, what we propose to do is actually bring the site down and kind of level it off and use as much material on site as possible and raise this up about eight feet. This would be the restaurant on the corner so you would be able to see it but you wouldn't be able to get at it until you go further up on East Cedar Street. What we are proposing here is a bank, a right in turn only. This was done before we got the approval from the STC so this is a right in only which will come up between the bank, and this is the gas station/convenience store. On the far side of the gas station/convenience store will be a traffic signal, we'll widen East Cedar Street to several lanes to include a left hand turn lane into the Redan, also widen back and include a left hand turn lane into the Healthtrax to help better get in and out of there. A road will come in between here which we envision having a joint access for the benefit of the thirty acres next door, depending on whatever that ends up being and then wrap around the gas station and come back, and the road will come between, this will be 9,000 square feet of retail, and then in the back you see the hotel and will wrap and come down between the two and have general parking here. There will also be an entrance and exit to the upper level parking area which would be the front door of the hotel.

Commissioner Lenares: So the only exit would be on that road.

Michael Frisbie: All the traffic would be funneled out to the traffic signal.

Commissioner Lenares: Okay, perfect. Thank you very much.

Michael Frisbie: You're welcome.

Commissioner Camerota: It's for Mr. Frisbie. Can you just give a best estimate on how long each phase is going to take, if you got what you requested, eventually.

Michael Frisbie: Well, if we got what we requested, we would start right away on the off site improvements as well as the infrastructure and then the gas station and convenience store and retail, 9,000 square feet of retail and that would take about nine to twelve months to construct and build and our opening would be about twelve months from the time that we actually start construction. That's our plan. We're hopeful that our new broker is generating interest now for the bank and restaurant pad sites and what he is telling me now is, in that industry, in those two industries those folks are looking for sites that are ready to go. You know, something that they can get into. They are all done for 2009, but they are looking for new projects in 2010 which bodes well for us in the sense that if we start construction, and they know that twelve months from now that they could get in as well, then it gives us a better opportunity to move Phase Two quicker than we would otherwise if we didn't start the project. Then phase three, we are looking at twelve to eighteen months where the banks would hopefully loosen up their purse strings to allow financiers to come in and do the hotel portion of the project, but that will still take him some time, he needs to go through that process, which could be a ninety to one hundred and twenty

day process and then actually do his architectural design and construction, so that could be two to three years out before the hotel could be built, and I want you to know, that is a real time scenario.

Commissioner Camerota: Thank you.

Chairman Hall: Anyone else? Anyone from the public wishing to speak in favor of this project, again, come forward, state your name and address for the record.

Fred Callahan, 99 Cedarwood Lane: I own the property, with my brothers across the street from this project. I'm going to speak in favor of it, that's what I'm here for. Mike had met with us several times beforehand and it works out for us as well as his project. As most of you probably know, we had a big box all set to go, the lease was signed, we had met with the town staff, we had met with the neighbors, we were ready to move, the economy tanked and my tenant went right with the economy. We thought it was okay because we had a backup tenant, so we went to the backup tenant, he said, I'm ready to go, thirty days later he said, I'm out of it also, so we're sitting there with vacant land, so I understand Mike's dilemma, it's just all backed up, they are all pulling away. They really are. The economy has tanked, they are not going to do anything, but I want to support Mike's proposal one hundred percent. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak in favor?

Steve Capazone: Good evening, I'm here representing Healthtrax Fitness and Wellness. We're right across from the proposed property that Mike's looking to develop. I'm also here to endorse the project. I think from our standpoint certainly having more of a retail presence across the street from us only helps our business. If you look at some of the other fitness facilities in town, you know that they are located in very high visibility retail locations, unfortunately for years we have never had that benefit of people being able to park near, or across from our business and create more awareness, so I think from our standpoint selfishly I think it would be a great thing for our club. I think the second reason that we are in favor of it is really more from a safety standpoint. We have been discussing the whole issue of traffic lights and traffic patterns and changing and widening the road, etc. We have about seven hundred visits a day coming into our facility, so we're getting close to twenty thousand visits a month. It's pretty busy, and unlike some of our neighbors, our traffic is significantly higher, so we're acutely aware of safety concerns and safety issues. The other thing about our traffic is our demographic has changed significantly over the last ten years. We tend to be the club that services more of the senior population, the average age in our facility is fifty-five and that is skewed down actually because we still have a lot of young families along with those seniors, but our concern is the safety of our members, getting in and out of the facility and we're hopeful that if this project goes through it will improve that through some redesign of the access and egress of our property, so we fully support it and would like to go on record as saying that. Thank you.

Chairman Hall: Anyone else wishing to speak in favor of the project?

Alan Bongiovanni: Thank you. Alan Bongiovanni, 170 Barn Hill Lane here in Newington. I have been watching this project for some time, I don't want to sound self-serving, I do Mr. Frisbie's survey work, but this project really is one of the gateways to Newington. It's a fabulous project, I believe the Commission felt that way when they approved it, and he's not taking anything away. He's proposing to build the project, he's looking for some flexibility in the time line, and the order in which he does his work on the site, because of the economy, and it's not just the State of Connecticut, it's not just the United States, it's the whole global economy that's depressed, or at least in a severe recession and you know, this is an opportunity for this town to help foster some of this development. You don't have a developer looking to come here and say, I am only going

to give you this and forget the rest of it. The amount of money that he has to put in to do this phase, with the off-site improvements, he has to see this project come to fruition, and not just stop at the first two components of it. This project has to be built as a whole just to support the work that is being done. He has financing in place, I think the Town of Newington should be one hundred percent behind him and foster this type of development. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak in favor? Anyone wishing to speak in opposition? Anyone wishing just to speak?
Seeing none, do the Commissioner's have any questions?

Commissioner Schatz: On that access road, to the other developer, where you described where it is going to go in, on the other side of the gas station, swing up, take a right, come down to a dead end, so the question is basically, you have a hotel in there, how can the fire apparatus get in there, they can get in that way, but can they get around the building?

Ed Meehan: When this went through site plan review, Fire Marshal Schroeder went all through the turning templates and the width of the roadway, the radius was sized for our aerial truck, so they do have good access into this site, and there is enough interconnections between the roadway system and the parking lots so they can do a complete turn in and out of the site. It's all going to be controlled by one traffic signal on East Cedar Street because of the high volume of traffic there. That's pursuant to State Traffic Commission, and the Commission's own approval, where at the time, those of you on the Commission know, we were very concerned about the very critical location of a traffic signal on the crest of the hill, so that is why we have one access, in and out.

Commissioner Schatz: The other question I have actually may be, we were concerned with the one traffic light, with the queue backing up down the hill so you would have a line of traffic coming up the hill and in the winter time we might have a problem there with cars not being able to get up the hill. I think that was one of the main concerns of the original application, that it was going to back some traffic down the hill because of the volume that comes up that hill. I'm just talking off the top of my head, if the gas station didn't set there, where could you put it that it would be up on the flat more? I don't think it could happen, but just a question.

Ed Meehan: That was one of the issues that the State Traffic Commission had on its list when they required the road profiles and the widening and the turning lane and the placement of the traffic signal. So they have taken into account what we call the background traffic which is occurring out there now, and future building traffic, taking into account the land uses for this site and the possible land uses next door, and required certain turning lanes, so they would not have approved this with the placement of the traffic signal unless they thought it was going to work, and that is how the Commission approved it also.

Commissioner Schatz: Well, personally, it's just me, I like the project personally, okay, I think it would be an improvement to the town, but I just want to make sure that we don't have a situation like we have at the other end of Cedar Street which is a nightmare on occasions.

Chairman Hall: Other questions? Now, when we were talking about the traffic light, they had talked about the entrance in and out, but also that they were going to widen it in front of Healthtrax. Was there ever a discussion of having everyone go in at the light, and go in maybe behind Redan and then into Healthtrax, so that we wouldn't have the widening with the left turn without a light, and then, further down, a light as well?

Ed Meehan: Yes. Traffic engineers, both the private sector and down at traffic STC looked at that, the certificate only relates to this project. They don't put a project together, but they do look

at projects in process in the area and one of the concepts is exactly as you said, if other projects in the vicinity came on line, there is the opportunity to tie them into that traffic signal. There were discussions with staff, with Mr. Callahan and folks on the south side of East Cedar Street about acquiring Redan and using that as a back driveway into Healthtrax, driveway access into the Callahan piece, and probably a driveway spur into the Gospel Church to bring everybody into a traffic signal. The advantages of that are that all your traffic queues on the so-called side streets are driveways and the only two loop detectors are only permitted to get onto the through traffic at certain low volumes, and that is the concept basically for this project. You have a side street which serves this project, and maybe a project next door, with a lot of queue storage on what might be a future town road. So that was really the concept and one of the things that ConnDot had talked about and I'm not, I haven't seen the traffic signal plan as it finally came through STC and it probably won't be designed for a while anyway. They talk about what they call back loop detectors. We only see loop detectors right up at the light. ConnDot is using some high traffic areas, what they call in the queue loop detectors so the last car in the queue line triggers the loop detector. That would be advantageous if they had a driveway into Healthtrax, so those people taking lefts in there, particularly at the peak hour in the afternoon, when the volumes are high, the sun is going down in the west, to get those people safely into there through a left turn through a traffic signal. So it's been looked at, but specifically, in the STC conditions, they can only deal with this site as far as what they want for off-site improvements. Other projects come in later, we'll have to add to this.

Chairman Hall: All right. And the petitioner said, you have the approval from the STC.

Michael Frisbie: Yes we do.

Chairman Hall: Okay, and is there a possibility that we can get an oversight of that, so that we can see at some point what you did have the approval for, or

Michael Frisbie: Well, the town was copied.....

Ed Meehan: Yeah, we have a copy of it and I sort of abbreviated my comments just now, it's pretty much what the certificate is, in addition to that, there are all kinds of requirements for further engineering and construction drawings that have to go to the district, District One, and bonding for this site, but I'd be happy to make copies of that certificate and make sure that Commission members have that.

Chairman Hall: I think we'd like to see that. Any other questions? If we were to leave this open, we would have to get an extension from Mr. Frisbie because our time would be up before our next meeting. If we were to close it, then we would have sixty-five days from tonight when we close it to act.

Commissioner Pane: I propose Madam Chairman that we close this. I don't see any reason to leave this open any longer. As a matter of fact, I'd like to make a motion to close it and move it to Old Business and talk about it tonight.

Chairman Hall: What is the feeling of the Commission? We have a proposal to close it, everybody.....

Commissioner Ganley: You haven't got a second.

Commissioner Aieta: I'll second it for purposes of discussion.

Chairman Hall: Should we leave it open, I mean, some of our members are not here tonight, if we close it, then we have sixty-five days to act on it.

Commissioner Ganely: Well, I suggest we close the thing, I still, I'm still concerned about whether this is the proper venue to settle that issue and the fact that A talked with the Town Attorney or B did, doesn't tell us anything. I'd really like to see something from the Town Attorney saying that it is okay for us to do this, and thus far, we haven't got anything, and I would be very interested to see what Judge Levine has to say, since he put holy water on this, so I think we have the cart before the horse here. A simple letter, some indication that we are authorized to handle this, and I'm not comfortable with the fact that we are, at this time.

Commissioner Pane: Madam Chairman, they're just following our regulations and I think it is the proper venue to come to this board first, get our approval, and then if there are any technical things that they have to do in the court, then that would follow, but this Commission has to approve what they want to do, for changes so I think that they are in the right venue, they come here, we have stipulations in our regulations that cover these modifications, I think the applicant has described it, time after time, I think it's pretty visible to everybody on what changes he is making, I think he's following our regulations, so I think that we should make a decision on this, and then if there is something that has to be changed or if the two parties need to go to the court, to do an additional letter to the court saying that both parties now have agreed about these modifications, then that would follow this Commission. Thank you.

Chairman Hall: All in favor of closing the petition and moving it to Old Business.....

Ed Meehan: I would just caution that if you are going to ask for more information to come in, such as what Commission Ganley mentioned, I would think you may want to keep it open for the benefit of the applicant and his attorney to see that information. I mean the STC certificate is a matter of public record, it's by the STC, it pertains to the developer, you might close it if that is the only thing you wanted, but if you wanted to get information from your attorney or anybody else, you ought to leave the hearing open so that the applicant and his representatives have the benefit of being at your next meeting when you discuss that, and because it is a public hearing it would be part of the public hearing discussion. You can always close it on the 22nd, and move it to Old Business that night if there are any issues. I just don't, I would say that Town Attorney Ben Ancona when this was asked of him back in March said, at some point, you should go back to court. He didn't say you have to get this done by the court first, but because it was a stipulated agreement set by the court, it needs to go back to that, as you say, put the holy water on it, but I think it has to start at this table first because the ultimate agreement between the two parties was ratified by the Planning and Zoning Commission after it was hashed out by the Town Attorney. Steve Nassau was Attorney at the time with Dave Griffith and Mike Ziska represented Mr. Frisbie. So I think after you guys hash it out, it's really a sequence thing here I think, then you bring in your town attorney, and then you decide then you are going back to court, but I think as a matter of practice, we know that we are going to get more information in, the Commission has always left the hearing open. So, that is what it's worth.

Commissioner Lenares: I'm kind of caught in the middle, I understand what Tom is saying, that this is not the right venue, I understand what Dom is saying, let's move this thing forward, it's not everyday you have a project like this coming to town, especially in times of the economy that we are presented with, but Ed, you are recommending that this is the proper venue, and if it does have to go to the courts, for whatever reason, it's okay then to do after?

Ed Meehan: That's what Mr. Ancona advised back in March. Settle the agreement now, at this level, either to call it an amendment to a Special Exception or whatever you want to call it, so that both parties come up with something. In April the Commission did not have a petition before you

so it wasn't a formal application with a public hearing as it is tonight. In April, for whatever reason, the Commission members denied it then. This is another shot at it, another look at it, if you do agree to this and you modify some of this language that has been drafted tonight, I think it could be tightened up if that is the will of the Commission, then I believe it would have to go back to court, just as a matter of courtesy to let them know that the stipulated agreement has been changed. But if you want to get that formally reported to you from the Town Attorney I think you ought to leave the hearing open, so that can occur in the next couple of weeks.

Commissioner Camerota: Talking about the town attorney, we have to keep the meeting open to get information from our own attorney?

Ed Meehan: It could come in outside, your attorney, or your staff or your town planner or your town engineer could bring information in, outside, you know, after, I don't think, it's permissible, but it's not always a good practice. This is a big project, you want to get the procedure right.

Commissioner Camerota: No, I definitely think we should have Ben here to have his input, I just didn't know, I don't remember previously if we had left it open or not.

Ed Meehan: The last time you didn't have a public hearing process, back in April.

Commissioner Camerota: Right, but in other petitions?

Ed Meehan: Usually you have left the hearings open, you haven't closed them. Sometimes I'll say, on a technical issue, like a drainage issue where the applicant is tuning up his drainage and the town engineer has more time to look at it, that's a different situation than this type, this is a larger issue than that. Two weeks, I don't think is going to.....

Commissioner Schatz: So the applicant won't run out of time then?

Ed Meehan: No, the applicant has to grant you the extension. If he doesn't want to grant you the extension, it's a moot point. You close it tonight.

Chairman Hall: My preference would be to leave it open, mainly because we are missing some people who were involved in it from the beginning, I know that they would like to read the minutes, find out what if anything was different tonight versus than what we had before and then make the decision from that point, so it would be my preference to leave it open. We have a motion on the floor to close it and move it to Old Business for this evening, so we do have to act on that, unless the maker retracts that, maker and second, so.....

Commissioner Pane: Madam Chairman, I just don't understand why Commission Ganley wants to get an opinion from the Town Attorney. We're not all saying that it is not going to go to the Town Attorney eventually, but this Commission, as a board, has to make a decision first on what it is happy with, okay, and then after that, then like the Town Planner said, out of courtesy they would go to the court and let the judge know what was going on. For the Town Attorney to come in here and say you would have to go to the court first, and not come to this board, then it wouldn't be following our regulations.

Chairman Hall: I agree with what you have said, however, in our vote the last time, we did say what we wanted, and we wanted the whole project, now he is coming back and saying again, that he wants to modify it, so there were people here who took that very seriously.....

Commissioner Pane: I understand that.

Chairman Hall: And I think should have the courtesy of being able to be in on this, it's only a question of two weeks and.....

Commissioner Pane: It could still be closed, and we don't have to act on it. I'll just propose to close it and not move it to Old Business, but I don't see why we can't close this and move this forward as fast as possible.

Chairman Hall: So you will take the part about moving it to Old Business away?

Commissioner Pane: Yes Madam Chairman.

Chairman Hall: So now, and the seconder, which was Frank, that's okay,

Commissioner Aieta: I have a couple of questions before I rescind. So if I understand this right, there are concerns from the Commission as a whole that they are afraid that this project won't go forward as a whole, they are afraid that it will be started and not continued.

Chairman Hall: Well, the original project was the whole, which everybody approved and liked. Now he is coming back and saying, I can only do a part of it, and the part that I can do, really is the gas station, although I can do some pad sites and I can get some retail and whatever, but the whole thing won't be for several years, so what the Commission decided the last time was, we understand the economics of it, however we still like this project as a whole. Now he is coming back and giving us a two to three year plan for the whole thing, and again, it's a leap of faith that this will end up looking the way that it is on that paper because he admits, up front, the money isn't there. So how much of this are we going to get, and how happy is this Commission going to be with what we ultimately have. That is our dilemma. So therefore to wait another two weeks to hash out a few more things, on a three year project.....

Commissioner Pane: Madam Chairman, maybe we shouldn't close this hearing and maybe we should have the Town Attorney come here next meeting, and let the Town Attorney come here because I think some of the Commissioners as a whole are trying to force too much on this applicant, and legally speaking I don't think you can, and maybe we should ask the Town Attorney for his opinion on whether or not we can force this applicant to build everything all at once.

Chairman Hall: Okay, because again, that is exactly what that stipulated agreement was, and that's what was approved, that's what everybody signed off on, and now we are coming back to change it.

Commissioner Pane: And I disagree with it, and I think maybe we should get a legal opinion, because after all, the Town Attorney is going to have to step in, if this doesn't go the right way, so maybe we should leave this open, so I would like to leave it open and we will have the Town Attorney here next meeting because I would like to hear his opinion because I don't think this Commission is going in the right step.

Chairman Hall: That's fine. Frank are you going to,....

Commissioner Aieta: I'll withdraw.

Chairman Hall: Okay, he will withdraw his second and the maker will withdraw his.....

Commissioner Pane: Yes, thank you Madam Chairman.

Chairman Hall: Now, we will keep it open.....

Ed Meehan: You need Mr. Frisbie to agree to that, if he doesn't, then all of this....

Chairman Hall: Mr. Frisbie, we would like you to extend to us an extension so we can keep this open.

Michael Frisbie: How long would the extension be?

Ed Meehan: To the next Commission meeting, July 22nd.

Chairman Hall: Two weeks from tonight.

Michael Frisbie: I would be happy to do that.

Chairman Hall: Thank you very much.

Michael Frisbie: From what I understood, the Town Attorney will be here to give us his opinion?

Ed Meehan: Hopefully, I can't commit for him, he won't be on vacation.

Commissioner Ganley: The town hired a couple of other attorneys who worked specifically on this.....

Chairman Hall: We could probably get them.

Ed Meehan: No, we did not have other attorneys on this.

Chairman Hall: I thought as a backup we had.....

Ed Meehan: We had, on this project, it was Steve Nassau's office, and Dave Griffith, and since then we have changed Town Counsel.

Commissioner Pane: We have a Town Attorney and Ben Ancona is our Town Attorney and he is the one who would be coming here to give us an opinion.

Chairman Hall: Right, as long as he is not on vacation.

Ed Meehan: If not, he can give us something in writing.

Chairman Hall: Yes, is Attorney Ziska going to be available on the 22nd.

Attorney Ziska: Yes, I can be available.

Chairman Hall: Okay, Petition 16-09 will remain open.

B. PETITION 18-09 647 North Mountain Road, BAPS Hartford, LLC, owner Nikhil S. Vyas, applicant, VB Tech Corporation, 2049 Silas Deane Highway, #1E, Rocky Hill CT 06067, request for Special Exception Section 3.2.1, Places of Worship – Residential Quarter, B-Business Zone District. Schedule for Public Hearing, July 8, 2009.

Chairman Hall: I see that the petitioner is here, please state your name and address for the record please.

Nikhil Vyas: I am representing the (inaudible) temple and we do have members of the temple in the audience as well. If I can't answer some of the questions about the temple, the members can probably give you the answers.

In 2006 we purchased the property on North Mountain Road and received all of the approvals from the town to operate the existing building as a place of worship. Minor modifications were proposed and made to the existing building. These modifications included installation of a fire alarm system, and smoke detectors. All of the work was completed and inspected by the town officials. In 2009, just earlier this year, a modification to the language of Section 3.2.1 to allow residential quarters for priest for the place of worship was applied for and approved by the board on April 7th. Now at this point we are presenting an application for a site plan. Now this application is for an addition of about twelve hundred and fifty square feet to the existing building. This addition will be used for residential quarters for the priest. The existing building front access to the east side, North Mountain Road is to this side, and the existing, the proposed addition is to the east of the building. This is a two story building with a small portion to the back of it which is a single story and the proposed addition is going to be as a second story to the same building. This is the front of the building, this is the rear of the building, what you see down below is the first story and right on top is the second story. This is the rear elevation, the construction of the addition is going to be, the exterior walls are going to be (inaudible), the inside will be gypsum sheet rock finish with the two inch insulation and drivet covering. The pitch of the roof is going to be almost parallel to the existing roof. The exterior, and the finishing, we are proposing to use drivet on the outside because this brick is very difficult to match, the composition and the construction and all that, so that is why, we can take a drivet exterior which will match the existing rockwall. The windows are going to be tinted glass, and the roof is going to be regular asphalt shingles.

Chairman Hall: Now do you have a floor plan? I know that the papers that are on the table have a floor plan, but if there is anyone from the public who might want to see, if you have that, if not maybe we can take one of these and hold it up.

Nikhil Vyas: Just a few things about the exterior finish that we are proposing here. It's a drivet finish, now the drivet is very versatile, some of you might know about it, it's a very common material. It's a light weight construction, so we are not adding any more weight to the building, insulation wise, it's a better material and therefore the whole structure is energy efficient and it matches the color of the existing remainder of the structure which we are trying to blend in. So the existing surroundings, and the new structure blends in naturally without new versus old. Now that is the main feature as far as the exterior is concerned. We wanted to blend into the existing surroundings and why, because we needed the residential quarters for the priest on site. Overall, you are trying to improve the functionality and uses of the facility. Once we receive the approval of this board on the site plan, we will prepare construction documents, and we will submit it to the Building Department and the Fire Marshal for their approval before starting construction. I would be happy to answer any questions you might have.

Chairman Hall: Ed, do you have anything to add?

Ed Meehan: I have a brief staff report on the Commissioner's places at the table. Based on the standards of the zoning regulations which were amended effective April 22nd, 2009, for places of worship, residences on site, for part of the building. The presentation complies with the standards for square footage, location and the general, both the general and specific special exception criteria of the zoning regulations. I also included an aerial, the second page which shows the back of the building and the flat roof area which the applicant is explaining to you. The flat roof area is where the residence would be constructed and the square area to the other side is basically the stairwell which would provide access to the new residence as well as to the temple itself, and within that area is all your fire egress from the hallway and the space below. So, what I am saying as staff, is that this complies with your zoning regulations.

Chairman Hall: Now these windows that are currently here, will they be blocked by the addition?

Nikhil Vyas: Partially.

Chairman Hall: Partially, you will leave some light that will be.....

Nikhil Vyas: I would think so, the roof line.....

Chairman Hall: Come forward and tell us your name and address please?

Mr. Patel, Rocky Hill: The question you asked madam, yes the windows will be covered with the new apartment roof, but we are thinking that we would like to have some light coming into the temple, so we would have to make some modifications. Somewhere up here, in this area, we may be able to provide, the architect may be able to provide some light through there.

Chairman Hall: Questions?

Commissioner Aieta: How many people are proposed to live in this residence?

Nikhil Vyas: It's a family, right now we have only three people, husband, wife and a small kid, and basically that is what it is going to be like.

Commissioner Aieta: You are showing two bedrooms in the unit.

Nikhil Vyas: Right, basically one for the kid and one for the parents.

Chairman Hall: Anyone wishing to speak in favor of the petition, come forward, state your name and address for the record? Anyone wishing to speak in opposition to the petition? Anyone wishing to speak. Thank you.

I don't think that there is any reason to keep this one open, unless anybody sees any information that you want to filter through, so we close Petition 18-09.

C. PETITION 20-09 – 3066 Berlin Turnpike, Sphinx Shriners owners and applicant, represented by Kick Cassada, P.O. Box 31057 Newington, CT 06131-0157, request for Special Exception Section 3.2.8 Charitable and Civic Event Classic Car Show, August 15, 2009, rain date August 22, 2009, PD Zone District.

Ed Meehan: Commission members, the applicant asked to keep this open through July 22nd. They could not be here tonight, so they are asking that you keep it open and place it on your agenda for that night.

Chairman Hall: And that will still give us enough time to approve it and give them time to do what they need to do. I think that the person who was supposed to petition tonight is at a convention, so there is no way he could be here, and it's Dick, not Kick. You were right in reading it that way, but it's Dick Cassada.

III. PUBLIC PARTICIPATION (relative to items not listed on the Agenda-each speaker limited to two minutes.

Jay Bottalico, 37 Valley View Drive: I'm here tonight about the LED sign at the high school. I have seen your letter Madam Chairman, I thought it was great. I wish you had passed that letter on to the Town Council because I really don't know if they are all familiar with what is going on. I will tell you that the Deputy Mayor will meet with the Town Manager and next Tuesday night we will discuss it at the Town Council meeting, and I would like to see some of you Commissioners come in and explain what is going on because I don't think that the Council is fully aware about that sign. I know you people have made recommendations and the Town Manager apparently is going to make the decision and I still don't understand why he will make the decision, not the Town Council. Thank you.

Chairman Hall: Thank you Mr. Bottalico. Anyone else from the public wishing to speak, come forward, state your name and address for the record.

Michael Roche, 604 Church Street, Newington: Good evening, my property borders the Three Angels Church that is on-going. After the recent rains, the grading of the property, or the non-grading of the property is adversely affecting my property. I woke up to a pond in my back yard this morning. They came in a couple of weeks ago and cleared some vegetation along my property line and have done nothing since, and again, this morning, the rear of my property has been flooded. I think you folks are all aware of the situation with this Church and what has gone on in the past five years with this Church. After serious meetings with attorneys last fall and this winter there was a meeting held in the hallway of the court in New Britain, and I was pretty much guaranteed by one of the Elders from Massachusetts that this facility would be ready for landscaping in nine months. They pretty much, over the past month have done nothing at the site other than interior utilities as far as what I have seen. They put a roof on the building, they put Tyvek on the walls, and they put windows on the building. They have moved dirt around various times and right now the entire piece of property is now sloping to my yard. I've got eight foot banks of dirt that have been eroded by the rains over the past couple of weeks and I have been patient, and I have been patient ever since what we went through last year with this, my patience is running out now that this is physically affecting my property. Is this the right venue? Do I bring it up here, do I go to the Building Department, but once again my frustration levels are rising with these folks and the non-productivity on this project. I'm looking for help here before there is damage to my property. The silt fence is completely (inaudible) over, they have never maintained it, there has been brush along the silt fence ever since they cleared the property, and you folks are welcome to come and take a look at the condition of that property. There's eight foot banks of dirt that are fifty feet away from my property line from west to east. I don't see anything going on, and again, here we go again. Am I right in regards to the comment by the Elder regarding the time frame, that the town stipulated that it be ready for landscaping. If that is the case, they are no where near it.

Chairman Hall: Well probably the fact that the weather has been such, but.....

Michael Roche: Well, the weather has been bad for the past three weeks, not for the past six months, and it's been since March when they started, late February, early March since they started, it's the middle of July and they have absolutely no site work on this property. It's getting

worse instead of better, and all these banks now are eroding and last night was the icing on the cake, if you will. I have a pond in my backyard.

Ed Meehan: I can give you some, well first there is a bond in place for the site work, it's about forty-five thousand dollars. I'll have to check but I believe the completion date was the end of October, 2009, the end of the planting season, they had to have their landscaping in by. Relative to the drainage, I have been part of a conversation with members of the Building Department regarding the site work you mentioned, Mr. Roche. The Building Department has expressed to the Church and the general contractor their concern that, they sort of have this reversed. They should have done their detention basin first. They should have put the detention basin in to control drainage and act as a silt trap. They started to do some rough grading, and we got the impression that they were going to start doing some yard drains and gutters and they were told not to do that, not to hard pipe any water until they started with the detention basin, worked their way uphill. That was last week, that conversation.

Michael Roche: Correct me if I'm wrong, now with the building in place, the sheet flow has increased on the property because of the building.

Ed Meehan: The roof flow is coming off.

Michael Roche: And it's all sloped to my property.

Ed Meehan: So they were put on notice, their project engineer is aware of the situation, they also stopped construction of a Versa-lock wall which needed to be certified.

Michael Roche: Where is that?

Ed Meehan: The wall is up near the northeast corner, where the, it's a two level building, it's going to be like a knee wall that parallels Pane Road, and it started to get, again, got ahead of them, and because of the requirements for stabilization and certification, the zoning officer stopped that. So there have been project meetings with their general contractor on those two issues.

Michael Roche: Who is responsible for maintaining the silt fence, the integrity of my property?

Ed Meehan: The Building Department and I will relay this to the Building Department.

Michael Roche: And how soon before I can expect to see some kind of action out there because you and I and everyone in this room can't control the weather, but somebody sure can control the silt fence.

Ed Meehan: I can't control the weather, but I will have the conversation first thing in the morning.

Michael Roche: I appreciate it. I don't want to go where we went before with this.....

Ed Meehan: I understand.

Michael Roche: But waking up this morning to have, I put a brand new five thousand dollar shed in my back yard, permitted, and I've got water flowing underneath it and seventy-five, eighty feet away from the property line, that's how much it's onto my property. There is one other issue with my other neighbor, to the south, he has had an abandoned vehicle on the property line and it has been there for going on four years. When the construction took place on Church Street, when they repaved it, a few years ago, I brought it up, came to the town

and brought it up, and I was told at that point in time that somebody would take care of it. To date, it's still sitting there. There is an ordinance against abandoned cars in town, is this the right venue to bring this up as well?

Ed Meehan: Yes. Is it visible from the street?

Michael Roche: Does it have to be? It's visible from my deck every day.

Ed Meehan: I know, but if an enforcement officer went down Church Street, would he see it from the street?

Michael Roche: If he parked parallel to the tree line that separates our property, and was on my neighbor's property, I'm sure he will.

Ed Meehan: Are you saying he would have to go on private property to see this vehicle?

Michael Roche: No, he could park on the street.

Ed Meehan: Park in the right of way.

Michael Roche: Right. That is all I have, but I'm very interested in seeing the outcome of the Church property.

Chairman Hall: Thank you. Anyone else wishing to speak?

IV. MINUTES

June 24, 2009 Regular Meeting

Commissioner Ganley moved to accept the minutes of the June 24, 2009 regular meeting. The motion was seconded by Commissioner Schatz. The vote was unanimously in favor of the motion, with seven voting YES.

V. COMMUNICATIONS AND REPORTS

Ed Meehan: I don't have anything formal, there is an article, a good article that the Chairman called to my attention on transit oriented development in the Hartford Courant. We have talked about that as part of our Plan of Conservation and Development, so if you get a chance to look at it and see what other places around New England are doing.

Chairman Hall: And also, I would like to address the fact, speaking of Communications that, because I don't think we have that anywhere else in here, do we? No, I did send a letter to John Salomone, I have at this point not received an answer, although I have been told that there will be. I'm also trying to set up a meeting, I also have called the Mayor on this, so I have been working for the past two weeks and feel a little bit like I'm pushing a rock up a hill. I will be there next Tuesday night for the Council meeting.....

Commissioner Aieta: Do you want us to come with you and support you?

Chairman Hall: It's up to you. I think if we have a certain number, won't it be considered a meeting if too many of us go, so, it has to be fewer than five I think. Four is okay, so if two or three of us go it will be fine.

Commissioner Pane: I just wanted to say Madam Chairman that you did an excellent job on the letter, I commend you on it. It really got across everything that this Commission was concerned about, you did an excellent job on it, and I plan on being at the meeting on Tuesday, too.

Chairman Hall: Thank you, and you have to thank Ed too, because it was a collaboration.

Commissioner Pane: Yes, thank you Ed.

Chairman Hall: We tried not to be in your face, so to speak, but we wanted to get our point across and also be serious that this is something that we are not going to let go.

VI. NEW BUSINESS

A. PETITION 19-09 – One John H. Stewart Drive, Jefferson House, Hartford Hospital owner, attention Alan Laites, Jefferson House, One John H. Stewart Drive, request for site plan modification to add 5,210 sq. ft. to building, PD Zone District.

Alan Bongiovanni: Thank you and Good evening, for the record my name is Alan Bongiovanni, 170 Pane Road , Newington, representing the Jefferson House which is part of Hartford Hospital and we are proposing to add about 5200 square feet addition to the north side of their care facility located on John Stewart Drive. This proposal is to add nine single patient rooms to the facility, it will not add patients to the facility. They are going to take nine two patient rooms and turn those into singles and then use these new nine rooms to facilitate those same nine patients that were displaced from the two person rooms.

It's a very simple application in that the existing building is here, you would come off of Lowry Place, enter John Stewart Drive, between the Northwood Apartments and the facility is the entry drive, main parking for the visitors is in the front, employee parking to the rear, and we are proposing to just extend from the north end of the building to the north and west this nine room, if you will, addition, about 5200 square feet.

This addition meets all the requirements of the zoning regulations of the Town of Newington for the bulk zoning requirements. There is no coverage requirement that this would violate and it is being served by the utilities that are on site today servicing the building. There will be some additional drainage to accommodate roof leaders from this proposed building and some grading around the site to the existing storm drainage facility. The property, the road rises, John Stewart Drive, as it goes by the Jefferson House, rises as it goes toward Cedar Mountain Commons and then wraps to the east and south. The building will be a few feet, the finished floor will be about five feet below the road as the finished floor is about 105 and the road is about 110. We are proposing a modular block retaining wall to support the elevated roadway with a guard rail and appropriate decorative fencing, at the top of the wall, there would be about a five foot wall at the highest point.

The architecture of the building will mirror the exact style of the existing building as it is today including materials and finishes. If you are not aware, I have copies to circulate of what the existing building in that area looks like. The alterations to the site basically comprise of just taking out a small portion of pavement, redoing the driveway, we're not changing the amount of parking spaces. We will lose a couple in this space, we're replacing them over in this location, I think by your regulations, this building is over sixty thousand feet today, that this would qualify for not having to come before the Commission. Talking with the Town Planner he suggested because of the front of the building that you would like to have a chance to look at it, but I think it is well within your regulations, I think it's a nice addition to a facility that has been part of the fabric of Newington for many years and I think it is something that they need to get done to keep their level of care at that facility, and we hope that you see fit to approve this relatively quickly.

Commissioner Aieta: It's an addition for additional rooms, I suspect.

Alan Bongiovanni: For additional rooms but not for additional patients or staff.

Commissioner Aieta: How many rooms will there be?

Alan Bongiovanni: There will be nine patient rooms in there. They are going to take nine two patient rooms from the existing part of the building, convert them to singles, and put the nine new rooms there.

Commissioner Aieta: It will have the same look as.....

Alan Bongiovanni: Absolutely. These are the actual building elevations, I wasn't sure if they were submitted with the prior, I did give additional copies to Ed. Materials are called up, heights are called out and matches and they did just provide some photos so that you can see the color, it is going to match.

Commissioner Aieta: Ed, you looked at this, are there any concerns that you have?

Ed Meehan: No, I looked at this when, well before it was submitted formally I met with Mr. Bongiovanni. It is less than ten percent, it is in the front of the building, but it is not on a public road. That's the private sector of the road, so technically that's why the setback line is drawn on the north, maybe show them Alan where the north property line is.

Alan Bongiovanni: John Steward Drive technically ends here, this is private roadway.

Ed Meehan: I does involve drainage, it's a tight little corner to get into, so the level of plans when I saw it initially meeting with BGI were such that I said bring it to the Commission so the Commission is aware of what is going on. We keep our mylar sets up to date and this expedites it moving through the Building Department construction phase.

Commissioner Aieta: So all the drainage and everything has been reviewed and.....

Ed Meehan: Yes, it all ties into the existing system with yard drains.

Commissioner Aieta: There is no additional parking required?

Alan Bongiovanni: Nothing.

Ed Meehan: Whatever changes is off set by this newer parking on the south island.

Alan Bongiovanni: A couple of things happened. There's some handicapped spaces here that we loose during construction, along this area. We will, detailed in the plans use these as temporary handicapped during the area being fenced off for construction, when it's done, the parking goes back in this area and these spaces make up for the loss in that area.

Chairman Hall: Any other questions? Could you describe that fence again to me? The building itself will be five feet below grade....

Alan Bongiovanni: The finished floor is five foot below grade, that's at this elevation here, where you see the foundation is a little higher. At this point here, about the corner of the building the ground is going to be about five feet below the road, so you have about a five foot retaining wall. We are going to have.....

Chairman Hall: At ground level though?

Alan Bongiovanni: From this grade here at the bottom to meet the road grade, the sidewalk grade is five feet.

Chairman Hall: Correct.

Alan Bongiovanni: We are going to have at the top of that wall a four foot decorative, I believe it is specified on the architectural plans as a aluminum fence, a decorative aluminum fence to reflect wrought iron, so we have protection from the people, and then we will have a guard rail before you get to the sidewalk, so cars will be protected from going over the embankment by the guard rail and then pedestrians, if they were to sit on that guard rail, there is still a four foot fence behind that as a protective measure.

Chairman Hall: So as you drive by, essentially you are going to see that fence, you aren't going to see the building.

Alan Bongiovanni: You will see the building, the fence is basically transparent. It's going to be a picket style

Chairman Hall: But it's going to be a bit of a block because although those are pretty big windows as you are driving by, you have to give them some screening.

Alan Bongiovanni: Yes.

Chairman Hall: But it is at the top, not at the ground level.

Ed Meehan: They have to have that fence, that is a code requirement. Anything over three feet they have to have building code protected fence.

Chairman Hall: I don't see any other questions, pretty straight forward.

Alan Bongiovanni: Thank you.

Commissioner Pane: Madam Chairman, I'd like to make a motion that we move this to Old Business and maybe vote on it tonight and get it off our agenda.

Chairman Hall: Do you have the capability of doing that tonight with everything else that you are doing?

Ed Meehan: I can get it referenced to the project.....

The motion was seconded by Commissioner Ganley. The vote was unanimously in favor of the motion, with seven voting YES.

B. PETITION 21-09 – 3720 Berlin Turnpike, Lowes Home Center, Inc. #623 owner, Bank of America c/o Howard Martin CBRE, 175 Addison Road, Windsor, CT 06095 applicant request for site plan approval to construct a drive-up ATM kiosk in Lowes parking lot, PD Zone District.

Chairman Hall: If the petitioner is present, come forward please?

Lorraine Sweeney: Good evening Madam Chairman, Members of the Commission. My name is Lorraine Sweeney, I'm a (inaudible) consultant and I am here this evening with Brian (Inaudible architect, representing the Bank of America. Bank of America is proposing to construct an ATM drive through kiosk in the existing parking lot of Lowe's at 3720 Berlin Turnpike. We have requested an interpretation about nine months ago under zoning as to whether or not an ATM drive up kiosk would be an allowed use, and we were informed that under your zoning it would be allowed, so we are here this evening to request a modification to allow for the construction as well as the elimination of seven existing parking spaces to allow to drive up to the facility and the movements therein. If you would like to ask us any questions relative to the original site plan which was approved about ten or eleven years ago for Lowe's, Brian and I would be happy to answer them.

Chairman Hall: Ed, do you have anything to add first?

Ed Meehan: It's a fairly straight forward minor site plan. It was an interpretation issue that the Commission wrestled with and then came up with the favorable comment that it is an accessory use. Its location, at that side of the parking lot, it's an area that is not used very much at all by the public. It doesn't take any landscaping out because it is an open island right now, and it's an area where if someone was using the ATM can get in and get out, without having to go very far into the parking lot, so from a circulation point of view, I think it works well there. I'm not quite sure what Bank of America's rationale is for, other than customer's and getting money out of our pockets, putting it there, there's only a couple other ATM areas on the turnpike at Sovereign Bank and Webster, but this is the only kiosk, free standing without a bank that I know of in town, and the prior Commission interpreted it as a permitted accessory use on a site like this, so it is a convenience to the customers on the Berlin Turnpike.

Chairman Hall: What is the traffic flow? Direct us in, off of Deming.

Lorraine Sweeney: I'm not sure where Deming Street is.

Chairman Hall: Deming is at the top.

Lorraine Sweeney: All right, I apologize. Coming in from Deming, the way that the traffic would flow to access the kiosk, it would come southerly along Deming then proceed easterly into what I have drawn here. Here would be the kiosk structure itself, this is the driveway next to the machine because they don't have to get out and what we are showing here is a maximum queuing of three cars which is based on Bank of America's studies, the most that would ever happen at one time. Typically there is only one, tops two, but at peak hours between twelve and two that's when they see the most and it's a three car queue which takes you to the end of what would have been this parking space over here.

Chairman Hall: So when you come in off of Deming, straight ahead will be an open aisle, you have to go west to the next aisle to get to this, and you have a queue of three provided for. Any questions?

Commissioner Aieta: Is anyone from Lowe's represented here at all?

Lorraine Sweeney: No, but they did however sign the application endorsing.....

Commissioner Aieta: The other problems, this diminishes the number of spaces that are usable, and that is their outside merchandizing, they take parking spaces for their outside merchandise, so they do take up, that's a problem with that side, outside merchandising by Lowes, using parking spaces that they shouldn't be using for storing stuff.

Lorraine Sweeney: What we have done, because when we did our outside survey on parking, we noted the things and what we identified were a total of forty-one blocked spaces on the plan.

Ed Meehan: Those are trailers.

Commissioner Aieta: Ed, I'll put you on the spot, do you have an idea of what the required parking is, does this adversely affect the operation there, the forty-one spaces that aren't usable.

Ed Meehan: I don't think from a practical, operational point of view the site is near capacity as far as what the customer demand is. The question that we have posed to Lowe's is, are those premium spots? If they, one time they had sheds out there and we finally had them move them to the far east end of the site, and they are up on the lawn and on the edges. Now, the last time we were out there they had camp trailers and utility trailers. If they were going to display them, they could display them up against the concrete apron of the garden center. That would move them out of the parking field. That has nothing to do with the applicant before us tonight, but it's an ongoing dialogue we have with the manager of Lowe's. Sometimes they have timber products out there, trailers, they are getting better about the sheds, but the trailers are easy to move because they are mobile, so that is something we have to keep on their case about.

Commissioner Pane: I think that is something that we need to look into before we act on this even though it's related but it's not related, I think this Commission should get some answers from Lowe's. There's a tremendous amount of parking spaces that are taken, whether or not they have ample spaces or not is really not the question, it's not allowed. Right next to the building there are massive spaces that are being taken up. I think we need to look into that and double check the site for any other problems before we act on this.

Commissioner Schatz: I have a comment, number one, one doesn't relate to the other. We're going to talk about an ATM we're not talking about garbage around the place.

Commissioner Pane: Well, with due respect, I think we need to correct any violations on the site before we act on anything else that is going to, whether you agree or not, this is the only way sometimes you get things done.

Commissioner Ganley: This I think is another classic example of too much asphalt per building. We went through this with TGIF and all the unused parking spaces in that plaza where the grass was actually growing up if you recall when they were putting the building up, and it's an over calculation of the number of parking spaces, and the regs say, do so much but in actual use, I go out to Lowe's all the time, and I can tell you categorically that those parking spaces on the north side simply are not occupied. You could just sit there all the time and never see them occupied, so as far as where the kiosk is located, I don't have a problem with it, I really don't. As for the trailers which I know is another issue, however they now happen to be parked on the west side and they are adjacent to the garden center and they take up I think it's the second to the last row. The reason I know this is that I always park there because I know that I am going to get a space and that's where they are right now. Once again, everything that is to the north side of that parking lot it's just not used. It's totally underutilized. That's my observation, I go there an awful lot.

Ed Meehan: There is a way that, and we have offered this to Lowe's and for whatever reason the manager hasn't taken this on a chance, is that, the regulations say, products and equipment intended for sale may be displayed in the front of the principal building, but not in the required front yard setback area. That's basically the thirty-five feet from the Berlin Turnpike. When approved by the Commission, the display of this equipment and products shall not obstruct pedestrian walks and fire lanes, so they could come in with their site plan and pencil up where

they wanted to display their equipment and that would be something that the Commission could consider. It doesn't block our fire lanes, it doesn't block the flow across the front of the building, or impede pedestrians, there are more than enough spaces to do that there, and they just haven't done it. However you want to handle it, it's up to the Commission.

Chairman Hall: Any questions? For those who weren't sitting before, this petition actually had been approved, how long ago, the original one, and then was never acted on?

Ed Meehan: The interpretation was offered I think nine months ago.

Chairman Hall: No, it was when I was still sitting in the audience, I'd say it was a couple of years.

Commissioner Schatz: There was a gentleman here.

Chairman Hall: This particular petition is new, but.....

Ed Meehan: Was there a problem with Lowe's signing, or what was the issue between Lowe's and the Bank of America?

Brian (): The kiosk itself?

Chairman Hall: No, this was something that came before the Commission a long time ago.

Brian: That would be before my time.

Commissioner Ganley: I have one technical question, if you were to move that space, that kiosk one set of parking spaces to the west, one could come out of the, across the driveway, to the west, that is, these parking spaces here, if I may, right here, then could come directly across instead of making two turns.

Chairman Hall: Yeah, but that is how everybody comes in, whether you are going to the ATM or not, I don't think that is a great idea having everybody coming in and having the kiosk right there. I don't like that at all. I may be the only one, but I like it offset.

Commissioner Ganley: I withdraw the suggestion.

Chairman Hall: Thank you. Any other questions, comments?

Commissioner Lenares: I have a comment. I'm still a little puzzled why if this is a no-brainer, according to Ed, why, and there are problems with Lowe's, why it should be held up. Is there any concern, I don't want to use the term backlash, but I mean, is there anything that would hold us responsible for having this approved because Lowe's is not doing what they are supposed to?

Chairman Hall: No, they are two separate issues. This doesn't mean that there aren't things that need to be addressed with Lowe's, but I don't think that we can really hold you people responsible for what Lowe's is doing.

Commissioner Pane: I stand corrected Madam Chairman, you are right. Maybe this Commission through our Town Planner can send a letter to Lowe's and get that corrected as a separate issue. Ask them to come in and present a new plan to us as a separate issue. Thank you.

Commissioner Aieta: I think one other thing, we should go beyond the store manager there and go to corporate and tell them we have a problem, some of these manager do what they want and I think if you took it beyond them, you might get a better response than talking to the store manager.

Chairman Hall: Any others? Okay, thank you for your time, I appreciate it.

VII. OLD BUSINESS

- A. PETITION 14-09 – 35 Budney Road, On-Site Gas Systems, Inc., Guy Hatch applicant, Hursey Enterprises, LLC owner, represented by Fuss & O’Neil Inc., Ronald Bomengen, 146 Hartford Road, Manchester, CT 06040, request for Site Plan Modification to add additional parking, PD Zone District. Inland Wetland Commission report required. Decision period extension granted for receipt of Inland Wetland Commission Report.**

Commissioner Lenares moved that PETITION 14-09 – 35 Budney Road, On-Site Gas Systems, Inc., Guy Hatch applicant, Hursey Enterprises, LLC owner, represented by Fuss & O’Neil Inc., Ronald Bomengen, 146 Hartford Road, Manchester, CT 06040, request for Site Plan Modification to add additional parking, PD Zone District. Inland Wetland Commission report required, be postponed to July 22, 2009.

The motion was seconded by Commissioner Ganley.

Commissioner Aieta: Are we running against the clock here with this?

Chairman Hall: I don’t think so.

Ed Meehan: No, we get an automatic extension, we have thirty-five days on the end of the Wetlands report.

**PETITION 19-09
One John H. Stewart Drive
Jefferson House**

Commissioner Ganley moved that Petition 19-09 Jefferson House proposed site plan modification to add 5,210 square feet to the northeast side of the building be approved based on the site plan prepared by BGI Land Surveyors, dated 6-12-2009, scale 1”=20’ entitled “Improvement Location Survey” be approved.

The motion was seconded by Commissioner Aieta. The vote was unanimously in favor of the motion, with seven voting YES.

VIII. PETITIONS FOR SCHEDULING (TPZ July 22, 2009 and August 12, 2009.)

Ed Meehan: There are a couple that came in after the agenda was mailed out. 153 Carriage Hill Drive has asked for a Special Exception for an Accessory Apartment. It’s a little unusual, I guess the accessory has been there for about twelve to fifteen years.

Commissioner Aieta: Why are they coming in now?

Ed Meehan: They need to sell it, or they want to sell it. They have provided information and looking at it quickly it appears that it actually does comply with the Special Exception standards but this warrants a public hearing, and that is being proposed for scheduling. The other item is a site plan modification for 121 Styles, Lenares Landscaping for a small addition to that property. That will also be going to Conservation because it is in the hundred foot upland review area, but that would be ready to present on the 22nd also. Other items on the 22nd, we will have the revisions to the town Plan of Conservation and Development, copies for each Commission member, we thought we might have them tonight, but we are still cleaning up the maps a little bit. So that night everybody will get a chance to look at them, and we will set the public hearing process in motion.

Commissioner Aieta: Are you going to put those two on for the 22nd?

Ed Meehan: I can, if you tell me, I can get the public hearing in tomorrow for Carriage Hill. It has to be advertised twice, so.....

Chairman Hall: Might as well, we are going to have Hunter back and probably the Sphinx, definitely the Sphinx if they want to get it to the 15th, but that again shouldn't be too heavy and then Carriage, Styles and the town plan. Anyone not going to be here next time? Just let me know.

IX. PUBLIC PARTICIPATION
(For items not listed on agenda)

None.

X. REMARKS BY COMMISSIONERS

Commissioner Aieta: In the last week or so, off of Pane Road on Maselli Road someone issued a permit to, not a hot dog stand, but an RV vehicle that is a full sized restaurant that is on the side of the road. It's been there for four or five days. What is happening is, it becomes a safety problem for people using Maselli Road because the truck is so big, this restaurant on the truck is so big that it extends into the travel lane and the side that you go to get your food, the people are standing in the middle of the street. This road now that Sam's is opening, is a major, that's their truck entrance and the truckers are coming around that corner and they have to go into the travel lane for the other, for the people going in the other direction. This is the wrong place for this, it's not a hot dog stand, it's actually an RV that they have a kitchen, it's actually like a restaurant.

Chairman Hall: It's not a fire truck that does Pizza? Have you read about that guy?

Commissioner Aieta: No, this is Blanche's Grill and it's a massive thing, it's a problem, the people are standing in the middle of the road, and then the people are lined up with the cars in the travel lane and today there was an eighteen wheeler pulled onto the side of Maselli Road, off of Pane Road and it's an accident waiting to happen.

Commissioner Lenares: Was he parked in the road?

Commissioner Aieta: He was in the road, yes.

Ed Meehan: Domenic mentioned that to me this morning in a phone call, I went down about quarter after two....

Chairman Hall: You should have gone down for lunch.

Ed Meehan: The guy had left, but it's one of the vending places that historically go back about ten years and we're going to have to take it off the list, because now with Maselli Road being open and the traffic for Sam's.....

Commissioner Aieta: Who gives out the permits?

Ed Meehan: Police Department. They get their Health permit first and then they have to go to the police.

Commissioner Aieta: And how many spots are there in the town that we allow, there's probably ten?

Ed Meehan: No, not that many. I think there are probably five or six. There's one at Constance Leigh, one at Pascone, Maselli was one, up on Fenn Road, there was one at Fenn and Holmes, there was one up on North Mountain, it was a location that was never really used because I guess the business wasn't that good. That was about it.

Commissioner Aieta: I don't think if the police went out there and saw the operation, they would have given him that permit.

Ed Meehan: I agree with you. It's something that got through the cracks. They had boards in the road or something.

Commissioner Pane: Yeah, that's right where the location was.

Ed Meehan: I will check with Chief Mulhall or Bill Darby, and we will get them relocated, either over to Rockwell or relocated completely.

Chairman Hall: Any other comments?

Commissioner Schatz: Yeah, what bothers me on the Church on Church Street, what bothers me, is there a time frame on this thing, or is this guy going to have a pond in his backyard for the next six months?

Commissioner Pane: That can be corrected right away with a silt fencing and they have a machine there that they can create a swale and redirect the water over onto their own property and with silt fencing and proper measures, very easy to redirect. I'm sure our Town Engineer will go over there, he probably wasn't aware of it.

Ed Meehan: They should have done the detention basin first.

Commissioner Lenares: Why didn't they, was it a natural progression?

Ed Meehan: Well, it was a natural progression of doing the project wrong.

Commissioner Ganley: Paralleling your comment, the contractor can't, it was sad to hear this guy talk about this, but that contractor shouldn't be using the weather as an excuse because it rains, ergo, it's okay for the water to go on, like he never figured out that one day it was going to rain?

Commissioner Cammerota: If you have ever worked on any construction cases, that is always their first excuse.

Commissioner Ganley: It rained the whole month of June, this guy never figured out that the water could go onto somebody's property? That's a poor excuse.

Commissioner Pane: There was a silt fence put up at the beginning of the job site, but it hasn't been properly maintained.

Commissioner Ganley: Right, right and the weather was no excuse. It rained, he should say, hey, it's raining, I better go out and check that fence. Never did! Obviously never did.

Chairman Hall: I don't think they are down there much at all. I don't know, do you see much activity over there?

Commissioner Aieta: In the last, it was, when they started they went like crazy and then in the last I'd say, month, month and a half, it stopped. I mean, it's ready for siding, they could side that building in two days. There is no activity at all, I see a couple of trucks, mechanical electricians, and plumbers and they come in and play around, but they are not there all day either. I don't know if it's a financial thing, or what happened but they never followed the grading plan at all, if there is one, because they just move dirt around and one day they'll move it to another spot, but the bank that he is talking about, from his ground level to the site, ten, fifteen feet difference in elevation. Now with the rains, it's eroded, there's big erosion that is going right on his property.

Commissioner Pane: And they never even put that fill, they never even did it in lifts, they just did it in a ten foot (inaudible), so in all reality I don't think, the parking lot, if they put the parking lot on top of something that you don't do proper lifts to, is not going to stand up. They are going to have to do some.....

Commissioner Aieta: All the roof drain drainage is in, and underground. I don't know where it goes.....

Ed Meehan: Well, that is the problem. That is what was called to their attention. They started to hard pipe that, but they were going to tie it to their leaders and gutters.

Commissioner Aieta: Okay, well, they didn't do the gutters yet.

Ed Meehan: So we said don't put anything into a concentrated flow, until you have your, the bottom of your detention system set up, with a weir to catch the silt and mud. The Town Engineer wants them to back that up before he lets them hook into the street system. They should have done that first. You work from the lower part, up and have a temporary detention basin.

Commissioner Aieta: I don't know if they did the yard drains or anything.

Ed Meehan: I'm not sure about the yard drains, but they have the leaders coming, hopefully they have them taped and covered.

Commissioner Pane: Just one quick one, Madam Chairman, on Cedar Street, right in front of the town hall and the library, there are two islands there in front of Garfield Street, that used to go by the library?

Chairman Hall: Mill Street.

Commissioner Pane: Mill Street, okay. They aren't being maintained. They cut all the grass, one is where the block is and one is right on the street, a little bit back in line with the sidewalk,

and the weeds are two feet tall. You could have the town take those weeds out and put some sod down or something. I don't know why they have been avoiding those areas.

Ed Meehan: I'll check into that.

Commissioner Lenares: I don't mean to talk about this again, but that letter that you wrote, in accordance with Ed that you submitted to the Town Manger, I just, I feel that it is appropriate that I have to say that it speaks volumes for this Commission. To be so unified and felt strong enough that we were being second guessed, and I just think that what you did, and what you submitted, and that you are going to go and speak about is just really, really good, and I feel confident that hopefully it will be taken care of, and I feel proud to be on this Commission that we just don't lay down and let everybody second guess us and do what they want because then, they could just dissolve this Commission.

Chairman Hall: Exactly. We might as well not be here.

Commissioner Lenares: I think it is really important. I don't mean to keep harping on it, I just think it was really great, what you did and I thank you for that, Ed as well.

Chairman Hall: Thank you, and definitely thank Ed.

Commissioner Camerota: I think it's important that they know that we were all unified in doing this letter, even though we all didn't agree on the issue.

Chairman Hall: Absolutely, and that is what I tried to explain to him too, that you know, we may have had different ideas about the sign itself, but the action was what we were united on, and the action is not acceptable.

Commissioner Aieta: I don't think that there was a lot of thought put into it, because the Town Manager is the traffic authority for the town of Newington.....

Ed Meehan: No, I am, they delegated it to me.

Commissioner Pane: Then you could just deny it on safety issues then.

Ed Meehan: Possibly.

Commissioner Pane: Because if you turn your head thirty-five degrees to look at this, and read it, now you are taking your eyes off the concentration of the traffic, so that's good, and depending on the angle of it and everything make recommendations.

Ed Meehan: Unfortunately when you get to that point, it's already up.

Chairman Hall: We can make it dark though, have you noticed that Walgreen's is dark on occasions lately?

Commissioner Camerota: Usually it is on at night and today it was only partially on and it doesn't flash any more lately. Give it a week or two.

Chairman Hall: I don't know, we may be making process.

Commissioner Aieta: I think that has to be brought up to the Council, that is a traffic safety issue and then I'm thinking that they didn't have any consideration for the people who live across the street at all.

Commissioner Lenares: Being on until ten o'clock at night.

XI. STAFF REPORT

A. Bond Reduction request – 3320 Berlin Turnpike, Global Granite.

**Bond Reduction
Global Granite
3320 Berlin Turnpike**

Commissioner Schatz moved that the bond held for completion of site improvements at 3320 Berlin Turnpike, Global Granite, be reduced from \$37,000 to \$17,000. The balance of \$17,000 shall be held for completion of the remaining items per the Town Engineer's cost estimate, dated July 7, 2009.

The motion was seconded by Commissioner Aieta.

Chairman Hall: Ed do you have anything?

Ed Meehan: I'll just tell you, this is a really good looking building, we went down and looked at it. Too bad it's not on the turnpike, those guys did a great job. Nice property.

The vote was unanimously in favor of the motion with seven voting YES.

Ed Meehan: Some thoughts on the Plan of Conservation and Development, I don't know how the Commission feels about, we're going to give you a bunch of options for covers. Rather than the standard waterfall, you know, Glenn found this on a web site. This is actually the bridge over the waterfall and someone had caught a couple of ducks in it, so we are going to, so for the 22nd, he's got some photos that he is going to show you, and I'm going to try to get some photos that present, so we are going to focus on the cover on the 22nd, but before we go to print, the photos inside will be brought back to the Commission for your approval, those are place holders, but we thought that, actually this is Planimetrics idea, to do something that really catches your eye on the cover, and this is one idea, so keep that in mind.

Chairman Hall: I like it because we are standing here, and moving forward, so I like the whole concept of that, and the ducks were cool too.

XII. ADJOURNMENT

Commissioner Aieta moved to adjourn the meeting. The motion was seconded by Commissioner Pane. The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary